

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Proposing rule making related to filing and withdrawal of appeals and providing an opportunity for public comment

The Human Services Department hereby proposes to amend Chapter 7, “Appeals and Hearings,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 217.6.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 217.6.

Purpose and Summary

Federal regulations allow providers and authorized representatives to file an appeal on behalf of a Medicaid member for managed care appeals when the member has given the member’s express written consent. These proposed amendments implement the use of Form 470-5526, Authorized Representative for Managed Care Appeals, to obtain the member’s consent.

The proposed amendments will also allow child abuse and dependent adult abuse appeals to be withdrawn on the record before an administrative law judge or in writing and signed by the appellant or the appellant’s legal counsel. Previously, withdrawal requests could only be done in writing. This change provides better access to due process for the Department’s clients.

Federal regulations allow assistance to continue for managed care organization health care services when certain criteria are met. Currently, rule 441—7.9(17A) indicates that assistance only continues if it is for the original period covered by the original authorization. The first use of the term “original” in the rule is a duplication, and it is being removed for clarification purposes.

Fiscal Impact

This rule making has no fiscal impact to the state of Iowa. These rules will streamline existing processes and provide better access to due process for the Department’s clients.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

These amendments do not include waiver provisions because they confer benefits on those affected and are generally required by federal law that does not allow for waivers. Individuals may request a waiver under the Department’s general rule on exceptions at rule 441—1.8(17A,217).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on May 29, 2018. Comments should be directed to:

Harry Rossander
Bureau of Policy Coordination
Department of Human Services
Hoover State Office Building, Fifth Floor
1305 East Walnut Street
Des Moines, Iowa 50319-0114
Email: policyanalysis@dhs.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **7.2(5)“b”** as follows:

b. If a provider or authorized representative is acting on behalf of a member by filing this type of appeal, the member’s written consent to appeal must be submitted on Form 470-5526, Authorized Representative for Managed Care Appeals, with the appeal request. If the appeal is filed verbally, the managed care organization or agency is responsible for obtaining the member’s written consent for the provider or authorized representative.

ITEM 2. Amend paragraph **7.5(2)“a”** as follows:

a. One of the following issues is appealed:

(1) to (17) No change.

(18) ~~An MCO~~ A provider or an authorized representative, for a managed care appeal, fails to submit a document Form 470-5526, Authorized Representative for Managed Care Appeals, providing the member’s approval of the request for appeal.

(19) to (22) No change.

ITEM 3. Amend subrule 7.6(2) as follows:

7.6(2) *Authorized representation or responsible party.* Persons may be represented for purposes of this chapter by an authorized representative or an individual, ~~or~~ organization, or provider recognized by the department as acting responsibly for an applicant or beneficiary pursuant to policy governing a particular program (hereinafter referred to as a “responsible party”), unless otherwise specified by statute or federal regulations.

a. The designation of an authorized representative must be in writing and include the signature of the person designating the authorized representative. Medicaid members may appoint an authorized representative or provider to act on their behalf during the appeals process regarding an adverse benefit determination made by a managed care organization by signing Form 470-5526, Authorized Representative for Managed Care Appeals. Legal documentation of authority to act on behalf of a person, such as a court order establishing legal guardianship or a power of attorney, shall serve in place of a signed designation by the person.

b. No change.

c. A provider or staff member or volunteer of an organization serving as an authorized representative or responsible party must ~~sign an agreement~~ affirm that such provider, staff member or volunteer will adhere to the regulations in Part 431, Subpart F, of 42 CFR Chapter IV and in 45 CFR 155.260(f) (relating to confidentiality of information), § 447.10 of 42 CFR Chapter IV (relating to the prohibition against reassignment of provider claims as appropriate for a health facility or an organization acting on the facility's behalf), as well as other relevant state and federal laws concerning conflict of interest and confidentiality of information.

d. to f. No change.

g. Designations of authorized representatives, legal documentation of authority to act on behalf of a person, and modifications or terminations of designations or legal authority may be submitted ~~online via the department's Web site~~, by mail, by electronic mail, by facsimile transmission or in person.

~~h. For purposes of this rule, the department shall accept electronic, including telephonically recorded, signatures and handwritten signatures transmitted by facsimile or other electronic transmission.~~

~~i. h.~~ Designations of authorized representatives, legal documentation of authority to act on behalf of a person, and modifications or terminations of designations or legal authority previously submitted to the department that comply with the requirements of this rule will continue to apply for purposes of appeals, consistent with their terms.

ITEM 4. Amend paragraph 7.8(1)"e" as follows:

e. A Medicaid provider or an authorized representative requesting a hearing on behalf of the member regarding an adverse benefit determination made by a managed care organization must have the prior express written consent of the member or the member's lawfully appointed guardian, ~~except when appealing a medical assistance eligibility determination on Form 470-5526, Authorized Representative for Managed Care Appeals.~~ Legal documentation of authority to act on behalf of a person, such as a court order establishing legal guardianship or a power of attorney, shall serve in place of a signed designation by the person. No hearing will be granted unless the provider submits a document providing the member's consent to the request for a hearing.

ITEM 5. Amend subrule 7.8(8) as follows:

7.8(8) Withdrawal. When the appellant desires to voluntarily withdraw an appeal, the worker, the presiding officer, or the appeals section shall accept a request from the appellant to withdraw the appeal by telephone, in writing or in person. A written request may be submitted in person, by mail or through an electronic delivery method, such as electronic mail, submission of an online form, or facsimile. The appellant may use Form 470-0492 or 470-0492(S), Request for Withdrawal of Appeal, for this purpose. For child abuse and dependent adult abuse appeals, the request to withdraw an appeal must be made on the record before an administrative law judge or in writing and signed by the appellant or the appellant's legal counsel.

ITEM 6. Amend subparagraph 7.9(5)"a"(4) as follows:

(4) The ~~original~~ period covered by the original authorization has not expired; and

ITEM 7. Amend paragraph 7.9(6)"d" as follows:

d. The ~~original~~ period covered by the original authorization has expired; or